

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CURTIS STEWART, )  
                        )  
Petitioner,         )  
                        )  
v.                    )       No. 4:16-CV-01240-AGF  
                        )  
MICHAEL BOWERSOX, )  
                        )  
Respondent.         )

**MEMORANDUM AND ORDER**

This matter is before the Court on Missouri state prisoner Curtis Stewart's motion to stay (ECF No. 24) and motion to dismiss appointed counsel (ECF No. 25). Petitioner asks that the Court stay the case to allow him to present his actual innocence claim to the Missouri state courts. He also asserts that appointed counsel has failed to assist Petitioner or respond to his questions, despite Petitioner's attempts to contact appointed counsel.

Petitioner is advised that on May 20, 2019, the Court entered an Order in this case concluding that Petitioner had failed to exhaust administrative remedies and staying the case to allow Petitioner to exhaust all available state court remedies. ECF No. 23. Thus, Petitioner's motion to stay will be denied as moot. In its May 20, 2019 Order, the Court directed Petitioner that he must pursue his state court remedies within 30 days of that Order and return to federal court within 30 days after state court exhaustion is completed. However, it appears that Petitioner may not have received that Order in a timely manner through counsel; Petitioner has suggested that appointed counsel has not been attending to the file, and appointed counsel has not responded to Petitioner's motion to dismiss

counsel. As such, the Court will extend the period for Petitioner to pursue his state court remedies.

As to Petitioner's motion to dismiss counsel, the Court will direct appointed counsel to respond to Petitioner's motion. Appointed counsel will be granted leave to file his response ex parte and under seal.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner's motion to stay is **DENIED as moot**. ECF No. 24.

**IT IS FURTHER ORDERED** that Petitioner must pursue his state court remedies within 30 days of this Order, and return to federal court within 30 days after state court exhaustion is completed.

**IT IS FURTHER ORDERED** that **on or before July 10, 2019**, appointed counsel shall file a response, ex parte and under seal, to Petitioner's motion to dismiss appointed counsel. ECF No. 25.

*Audrey G. Fleissig*  
AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 28th day of June, 2019.